UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
---X
KRISTIN RIGHTNOUR,

Plaintiff,

-against-

TIFFANY AND COMPANY,

Defendant.
---X

COMPLAINT

Docket No.:

Jury Trial Demanded

KRISTIN RIGHTNOUR, ("Plaintiff" or "Ms. Rightnour"), by and through her attorneys, BORRELLI & ASSOCIATES, P.L.L.C., as and for her Complaint against TIFFANY AND COMPANY ("Defendant" or "Tiffany"), alleges upon knowledge as to herself and her own actions and upon information and belief as to all other matters as follows:

NATURE OF CASE

1. This is a civil action based upon willful violations that Defendant committed of Plaintiff's rights guaranteed to her by: (i) the anti-religious discrimination provisions of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000(e), *et seq.* ("Title VII"); (ii) Title VII's anti-retaliation provisions; (iii) the anti-religious discrimination provisions of Title 8 of the Administrative Code of the City of New York, also known as the New York City Human Rights Law ("NYCHRL"); (iv) the NYCHRL's anti-retaliation provisions; and (v) any other claim(s) that can be inferred from the facts set forth herein.

2. Defendant is a world-renowned retailer and designer of jewelry. Plaintiff, a devout Catholic, began working for Defendant in Manhattan in the position of Director of Marketing in October 2013. In September 2014, based on Defendant's perception that as a

practicing Catholic, Plaintiff held the belief that "Jewish people killed Jesus," as well as Plaintiff's acknowledgment that many Catholics did indeed believe as much, the Company issued Plaintiff a formal write-up, placed her on a one-year warning plan, and withheld her year-end bonus of approximately $42,000.

3. Making matters worse, after Plaintiff, on December 8, 2014, lodged a good faith complaint with Defendant that the write-up, warning plan, and withheld bonus described in the prior paragraph constituted acts of religious discrimination, Defendant retaliated by issuing Plaintiff a negative performance review on her next scheduled review. Plaintiff then filed a Charge of Discrimination ("Charge") with the United States Equal Opportunity Employment Commission ("EEOC"). Thereafter, Defendant further retaliated by: passing Plaintiff over for a promotion in favor of a significantly less qualified individual; after learning that Plaintiff had amended her EEOC Charge to include the lost promotion, by informing Plaintiff that the "one-year warning period" set to expire in three months had been converted to an "indefinite" warning period; and ultimately terminating her employment on August 13, 2015.

JURISDICTION AND VENUE

4. The jurisdiction of this Court is invoked pursuant to 28 U.S.C. § 1331, as this action arises under 42 U.S.C. § 2000(e), *et seq*. The supplemental jurisdiction of this Court is invoked pursuant to 28 U.S.C. § 1367 over all state law claims.

5. Venue is appropriate in this Court pursuant to 28 U.S.C. § 1391(b)(1), as the Defendant resides within this judicial district, and pursuant to 28 U.S.C. § 1391(b)(2), as a substantial part of the actions or omissions giving rise to the claims for relief occurred within this judicial district.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

6. On April 22, 2015, Plaintiff filed EEOC Charge No. 520-2015-02190 against Defendant based on religious discrimination and retaliation in violation of, *inter alia*, Title VII.

7. On June 10, 2015, Plaintiff filed an Amended Charge with the EEOC to include additional acts of retaliation.

8. On February 11, 2016, the EEOC issued Plaintiff a "Notice of Right to Sue," which Plaintiff received on February 15, 2016. Plaintiff has commenced this action within ninety days of receipt of that notice from the EEOC.

PARTIES

9. At all relevant times herein, Plaintiff was a "person" and an "employee" entitled to protection as defined by Title VII and the NYCHRL.

10. At all relevant times herein and according to the New York Secretary of State's website, Defendant was and is a New York corporation with its principal place of business located at 727 Fifth Avenue, New York, New York 10022. Defendant employs fifteen and thus four or more "employees," and is therefore an "employer" within the meaning of Title VII and the NYCHRL.

BACKGROUND FACTS

11. Defendant is a world-renowned jewelry retailer and designer with retail store locations in several countries.

12. In October 2013, Ms. Rightnour, a practicing Catholic, began her employment with Defendant in the position of Director of Marketing at Defendant's corporate headquarters located at 200 5^{th} Avenue, New York, New York 10010.

13. Defendant provided Ms. Rightnour with her first performance review in the Spring of 2014, and on it, Tiffany evaluated Ms. Rightnour's performance at the highest level, or "outstanding," and scored her performance six out of six.

14. Shortly thereafter, in April 2014 and just before the Easter holiday, Ms. Rightnour had a discussion in her private office with two other employees. Though the conversation began as a work-related conversation among three colleagues, with Ms. Rightnour and one of the colleagues being Catholic and the third colleague being Jewish, the conversation turned into a discussion about Ms. Rightnour's plans for the Easter holiday.

15. During this conversation, Ms. Rightnour's Jewish colleague asked Ms. Rightnour and their Catholic colleague about the traditions of the Easter mass. Eventually, at her Jewish colleague's request, Ms. Rightnour explained the crucifixion story.

16. At no point during this conversation, or at any time thereafter, did Ms. Rightnour's Jewish colleague in any way convey that she was uncomfortable with Ms. Rightnour's religious beliefs or description of the crucifixion story. Rather, the Jewish colleague laughed at the story and replied: "they didn't teach us any of this in Hebrew school!"

17. At the end of August 2014, Silvia Raymond, Defendant's Human Resources Manager, advised Ms. Rightnour that Tiffany had received a complaint from one of Ms. Rightnour's co-workers indicating that Ms. Rightnour had stated that "the Jewish people killed Jesus" during that April 2014 conversation with her colleagues in her office.

18. Ms. Rightnour vigorously denied to Ms. Raymond having ever said anything of the sort, while simultaneously maintaining, when asked, that she is in fact a devout Catholic, that her religion was known to her colleagues, and that what Ms. Rightnour had explained is indeed a standard Catholic belief.

19. As a result of Ms. Rightnour's beliefs expressed during that conversation, on September 11, 2014, Defendant issued Plaintiff a formal warning notice to be placed in her personnel file and placed Plaintiff on a one-year warning plan.

20. Moreover, in conjunction with the formal warning, Defendant informed Ms. Rightnour that it would be withholding Ms. Rightnour's entire 2014 bonus, which was expected to be approximately $42,000. Defendant also informed Plaintiff at that time that due to the warning, she would be ineligible for a merit increase or a transfer for a period of one year.

21. As a result of Defendant's discriminatory actions as described in the paragraphs above, on December 8, 2014, Ms. Rightnour, through counsel, complained to Defendant's legal department that Defendant had discriminated against her due to her religion, and demanded that Defendant rectify and not repeat that conduct.

22. Shortly thereafter, in retaliation for her complaint, on Ms. Rightnour's next scheduled performance review that the Company gave to her on March 30, 2015, the Company evaluated Ms. Rightnour as having issues communicating "in a respectful manner" and scored her performance as just a three out of six, or "adequate."

23. The following month, the Company created a new position to be filled known as "Group Director of Brand Management," which would be a step above the Director of Marketing role that Ms. Rightnour and one other colleague held at the time for Defendant's North America sales region. This position carried an increase in salary, yearly bonus, and stock options.

24. On April 20, 2015, Ms. Rightnour filed her EEOC Charge, setting forth the claims and factual allegations discussed to this point in this Complaint.

25. On April 22, 2015, Defendant informed Ms. Rightnour that it would not be promoting her to the position of Group Director of Brand Management, and that Tiffany had

decided to promote the other individual instead. This other individual had been working in the same role as Ms. Rightnour, and through an objective comparison of their respective performances and demonstrated skills, Ms. Rightnour was significantly more qualified for the new position. Indeed, as merely one example of Ms. Rightnour's superior qualifications, Ms. Rightnour consistently managed projects that far exceeded their projected results and outperformed similar projects that the chosen individual had overseen. Yet, Defendant promoted this other individual and made her Ms. Rightnour's direct supervisor.

26. Shortly thereafter, on April 28, 2015, Defendant attempted to force Ms. Rightnour to enter into an arbitration agreement that would have required her to waive significant legal rights, such as pursuing the claims that she raised at the EEOC as described herein and any other related claims in court. Ms. Rightnour refused to sign the agreement.

27. On June 10, 2015, Ms. Rightnour filed an Amended Charge with the EEOC, setting forth the additional acts of retaliation to which Defendant subjected her after the filing of her initial Charge, as described to this point in this Complaint. On June 15, 2015, the EEOC forwarded the Amended Charge to Defendant via regular mail.

28. Less than one month later, on July 13, 2015, Defendant informed Ms. Rightnour that Tiffany was extending her "one-year warning period" that was due to expire in three months "indefinitely."

29. On August 13, 2015, after subjecting her performance to rigorous scrutiny for two months at a level far greater than that applied to other management level employees, Defendant terminated Ms. Rightnour's employment based on the stated and false reason that her performance had not developed up to the Company's standards.

FIRST CLAIM FOR RELIEF AGAINST DEFENDANT

Religious Discrimination in Violation of Title VII

30. Plaintiff repeats, reiterates, and re-alleges each and every allegation set forth above with the same force and effect as if more fully set forth herein.

31. As described above, Defendant discriminated against Plaintiff on the basis of her religion, in violation of Title VII by, including but not limited to, subjecting her to disparate working conditions, denying her the opportunity to work in an employment setting free of unlawful discrimination and harassment, and taking adverse employment actions against her.

32. As a direct and proximate result of Defendant's unlawful discriminatory conduct in violation of Title VII, Plaintiff has suffered, and continues to suffer, economic harm for which she is entitled to an award of monetary damages and other relief.

33. As a direct and proximate result of Defendant's unlawful discrimination in violation of Title VII, Plaintiff has suffered, and continues to suffer, severe mental anguish and emotional distress including, but not limited to, depression, humiliation, embarrassment, stress and anxiety, loss of self-esteem and self-confidence, and emotional pain and suffering, for which she is entitled to an award of monetary damages and other relief.

34. Defendant's unlawful discriminatory actions constitute malicious, willful, and wanton violations of Title VII, for which Plaintiff is entitled to an award of punitive damages.

SECOND CLAIM FOR RELIEF AGAINST DEFENDANT
Retaliation in Violation of Title VII

35. Plaintiff repeats, reiterates, and re-alleges each and every allegation set forth above with the same force and effect as if more fully set forth herein.

36. As described above, after Plaintiff engaged in activity protected by Title VII, Defendant retaliated by subjecting her to conduct that would dissuade a reasonable employee from making or supporting a similar complaint of discrimination.

37. As a direct and proximate result of Defendant's unlawful retaliatory conduct in violation of Title VII, Plaintiff has suffered, and continues to suffer, economic harm for which she is entitled to an award of monetary damages and other relief.

38. As a direct and proximate result of Defendant's unlawful retaliation in violation of Title VII, Plaintiff has suffered, and continues to suffer, severe mental anguish and emotional distress including, but not limited to, depression, humiliation, embarrassment, stress and anxiety, loss of self-esteem and self-confidence, and emotional pain and suffering, for which she is entitled to an award of monetary damages and other relief.

39. Defendant's unlawful retaliatory actions constitute malicious, willful, and wanton violations of Title VII, for which Plaintiff is entitled to an award of punitive damages.

THIRD CLAIM FOR RELIEF AGAINST DEFENDANT
Religious Discrimination in Violation of the NYCHRL

40. Plaintiff repeats, reiterates, and re-alleges each and every allegation set forth above with the same force and effect as if more fully set forth herein.

41. As described above, Defendant discriminated against Plaintiff on the basis of her religion in violation of the NYCHRL by, including but not limited to, subjecting her to disparate working conditions, denying her the opportunity to work in an employment setting free of unlawful discrimination and harassment, and taking adverse employment actions against her.

42. As a direct and proximate result of Defendant's unlawful discriminatory conduct in violation of the NYCHRL, Plaintiff has suffered, and continues to suffer, economic harm for which she is entitled to an award of monetary damages and other relief.

43. As a direct and proximate result of Defendant's unlawful discriminatory conduct in violation of the NYCHRL, Plaintiff has suffered, and continues to suffer, severe mental anguish and emotional distress, including, but not limited to, depression, humiliation, embarrassment, stress and anxiety, loss of self-esteem and self-confidence, and emotional pain and suffering, for which she is entitled to an award of monetary damages and other relief.

44. Defendant's unlawful discriminatory actions constitute malicious, willful, and wanton violations of the NYCHRL, for which Plaintiff is entitled to an award of punitive damages.

FOURTH CLAIM FOR RELIEF AGAINST DEFENDANT
Retaliation in Violation of the NYCHRL

45. Plaintiff repeats, reiterates, and re-alleges each and every allegation set forth above with the same force and effect as if more fully set forth herein.

46. As described above, after Plaintiff engaged in activity protected by the NYCHRL, Defendant retaliated by subjecting her to conduct that would dissuade a reasonable employee from making or supporting a similar complaint of discrimination.

47. As a direct and proximate result of Defendant's unlawful retaliatory conduct in violation of the NYCHRL, Plaintiff has suffered, and continues to suffer, economic harm for which she is entitled to an award of monetary damages and other relief.

48. As a direct and proximate result of Defendant's unlawful retaliatory conduct in violation of the NYCHRL, Plaintiff has suffered, and continues to suffer, severe mental anguish and emotional distress, including, but not limited to, depression, humiliation, embarrassment,

stress and anxiety, loss of self-esteem and self-confidence, and emotional pain and suffering, for which she is entitled to an award of monetary damages and other relief.

49. Defendant's unlawful retaliatory actions constitute malicious, willful, and wanton violations of the NYCHRL, for which Plaintiff is entitled to an award of punitive damages

DEMAND FOR A JURY TRIAL

50. Pursuant to Federal Rule of Civil Procedure 38(b), Plaintiff demands a trial by jury in this action.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that this Court:

A. Declare that the actions, conduct, and practices of the Defendant complained of herein violate the laws of the United States and the City of New York;

B. Grant preliminary and permanent injunctions against Defendant and its officers, owners, agents, successors, employees, representatives, and any and all persons acting in concert with them, from engaging in each of the unlawful practices, policies, customs, and usages set forth herein;

C. Enter an order restraining Defendant from any retaliation against Plaintiff for participation in any form in this litigation;

D. Grant an award of damages in an amount to be determined at trial to compensate Plaintiff for all monetary and/or economic damages in connection with her claims, whether legal or equitable in nature, including back pay, front pay, and any other damages for lost compensation or employee benefits that she would have received but for the Defendant's unlawful conduct;

E. Grant an award of damages to be determined at trial to compensate Plaintiff for harm to her professional and personal reputations and loss of career fulfillment in connection with her claims;

F. Grant an award of damages to be determined at trial to compensate Plaintiff for emotional distress and/or mental anguish in connection with her claims;

G. Grant an award of punitive damages, as provided by law;

H. Award Plaintiff her reasonable attorneys' fees, costs, and disbursements in this action including, but not limited to, any expert witness fees;

I. Award pre-judgment and post-judgment interest, as provided by law; and

J. Grant such other and further relief, including equitable relief, as the Court may deem just and proper.

Dated: Great Neck, New York
May 11, 2016

Respectfully submitted,
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